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NOTIFICATION

No. H. 12017/4/96-LJD, the 29th January, 1997. The following Ordinance hereby published for general information.

Lucy Lalrinthari,
Deputy Secretary to the Govt. of Mizoram.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 31st December, 1996/Pausa 10, 1918 (Saka)

THE INCOME-TAX (SECOND AMENDMENT) ORDINANCE, 1996

No. 32 OF 1996

Promulgated by the President in the Forty-seventh Year of the Republic of India.

An Ordinance further to amend the Income-tax Act, 1961.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and commencement.

1. (1) This Ordinance may be called the Income-tax (Second Amendment) Ordinance, 1996.

(2) Save as otherwise provided in this Ordinance, sections 4 to 10 shall come into force on the 1st day of January, 1997.

Amendment of section 54EA.

43 of 1961. 2. In section 54EA of the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), with effect from the 1st day of October, 1996—

(a) in sub-section (1), for the words, brackets, figures and letter "bonds, debentures or units of mutual fund referred to in clause (23D) of section 10", the words, brackets, figures and letter "bonds, debentures, shares of a public company or units of any mutual fund referred to in clause (23D) of section 10," shall be substituted and shall be deemed to have been substituted;

(b) for the words "specified bonds or debentures", wherever they occur, the words "specified securities" shall be substituted and shall be deemed to have been substituted.

Amendment of section 80G.

3. In section 80G of the Income-tax Act, with effect from the 1st day of April, 1997,—

(a) in sub-section (1), in clause (i), after the words, brackets, figures and letter "sub-clause (iiihd)", the words, brakets, figures and letters "or sub-clause (iiihe)" shall be inserted;

(b) in sub-section (2), in clause (a), after sub-clause (iiihd), the following sub-clause shall be inserted, namely :-

"(iiihe) the National Illness Assistance Fund; or".

Amendment of section 158BC.

4. In section 158BC of the Income-tax Act, in clause (a),—

(a) for the words "not being less than fifteen days", the words "not being less than fifteen days but not more than forty-five days" shall be substituted;

(b) after the proviso, the following proviso shall be inserted, namely :—

"Provided further that a person who has furnished a return under this clause shall not be entitled to file a revised return;".

Amendment of section 158BE.

5. In section 158BE of the Income-tax Act, for sub-sections (1) and (2), the following sub-sections shall be substituted, namely:-

"(1) The order under section 158BC shall be passed,—

(a) within one year from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997;

(b) within two years from the end of the month in which the last of the authorisations for search under section 132 or for requisition under section 132A, as the case may be, was executed in cases where a search is initiated or books of account or other documents or any assets are requisitioned on or after the 1st day of January, 1997.

(2) The period of limitation for completion of block assessment in the case of the other person reffered to in section 158BD shall be—

(a) one year from the end of the month in which the notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or any assets requisitioned after the 30th day of June, 1995 but before the 1st day of January, 1997; and

(b) within two years from the end of the month in which notice under this Chapter was served on such other person in respect of search initiated or books of account or other documents or day assets are requisitioned on or after the 1st day of January, 1997."

Insertion of new section 158BFA

6. After section 158BF of the Income-tax Act, the following section shall be inserted, namely:-

Levy of Interest and penalty in certain cases

"158BFA. (1) Where the return of total income including undisclosed income for the block period, required by a notice under clause (a) of section 158BC, is furnished after the expiry of the period specified in such notice, or is not furnished, the assessee shall be liable to pay simple interest at the rate of two per cent, of the tax undisclosed income, determined under clause (c) of section 158BC, for every month or part of a month comprised in the period commencing on the day immediately following the expiry of the time specified in the notice, and –

(a) Where the return is furnished after the expiry of the time aforesaid, ending on the date of furnishing the return; or

(b) Where no return has been furnished on the date of completion of assessment under clause (c) of section 158BC.

(2) The Assessing Officer or the Commissioner (Appeals) in the course of any proceedings under this Chapter, may direct that a person shall pay by way of penalty a sum which shall not be less than the amount of tax leviable but which shall not exceed three times the amount of tax so leviable in respect of the undisclosed income determined by the Assessing Officer under clause (c) of section 158BC.

Provided that no order imposing penalty shall be made in respect of a person if—

(i) such person has furnished a return under clause (a) of section 158BC:

(ii) the tax payable on the basis of such return has been paid or, if the assets seized consist of money, the assessee offers the money so seized to be adjusted against the tax payable;

(iii) evidence of tax paid is furnished alongwith the return; and

(iv) an appeal is not filed against the assessment of that part of income which is shown in the return :

Provided further that the provisions of the proceeding proviso shall not apply where the undisclosed income determined by the Assessing Officer is in excess of the income shown in the return and in such case the penalty shall be imposed on that portion of undisclosed income determined which is in excess of the amount of undisclosed income shown in the return.

(3) No order imposing a penalty under sub-section (2) shall be made,–

(a) unless an assessee has been given a reasonable opportunity of being heard;

(b) by the Assistant Commissioner or Assistant Director, as the case may be, where the amount of penalty exceeds twenty thousand rupees except with the previous approval of the Deputy Commissioner or Deputy Director, as the ca se may be;

(c) in case where the assessment is the subject matter of an appeal to the Commissioner (Appeals) under section 246 or an appeal to the Appelate Tribunal under section 253, after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, are completed, or six months form the end of the month in which the order of the Commissioner (Appeals) or, as the case may be, the Appelate Tribunal is received by the Chief Commissioner or Commissioner, whichever period expires later;

(d) in case where the assessment is the subject matter of revision under section 263, after the expiry of six months from the end of the month in which such order of revision is passed;

(e) in any case other than those mentioned in times (c) and (d), after the expiry of the financial year in which the proceedings, in the course of which action for the imposition of penalty has been initiated, whichever period expires later.

Explanation. In computing the period of limitation for the purpose of this section.-

(i) the time taken in giving an opportunity to the assessee to be reheard under the proviso to section 129;

(ii) the period during which the immunity granted under section 245 H remained in force; and

(iii) the period during which the proceedings under section (2) are stayed by an order or injunction of any court, shall be excluded.

(4) An Income-tax authority on making an order under sub-section (2) imposing a penalty, unless he is himself an Assessing Officer, shall forthwith send a copy of such order to the Assessing Officer."

Substitution of new section for section 158BG.

7. For section 158BG of the income tax Act, the following section shall be substituted, namely :-

Authority competent to make the block assessment.

"158BG. The order of assessment for the block period shall be passes by an Assessing Officer not below the rank of an Assistant Commissioner or an Assistant Director, as the case may be:

Provided that no such order shall be passed without the previous approval of the Deputy Commissioner or the Deputy Director, as the case may be."

Amendment of section 246

8. In section 246 of the Income-tax Act, in sub-section (2), after clause (d), the following clauses shall be inserted, namely:

"(da) an order of assessment made by an Assessing Officer under clause (c) of section 158BG in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A on or after the 1st day of January, 1997,

(db) an order imposing a penalty under sub-section (2) of section 158BFA,"

Amendment of section 253.

9. In section 253 of the Income-tax Act, in sub-section (1) for clause (b), the following clause shall be substituted, namely :—

"(b) an order passes by an Assessing Officer under clause (c) of section 158BC, in respect of search initiated under section 132 or books of account, other documents or any assets requisitioned under section 132A, after the 30th day of June, 1995 but before the 1st day of January, 1997 or"

Insertion of new section 276CCC.

10. After section 276CC of the Income-tax Act, the following section shall be inserted namely :

Failure to furnish return of income in search cases.

"276CCC. If person wifully fails to furnish in due time the return of total income which he is required to furnish by notice given under clause (a) of section 158BC, he shall be punishable with imprisonment for a term which shall not be less than three months but which may extend to three years and with fine."

SHANKAR DAYAL SHARMA
President

K.L. MOHANPURIA,
Secretarary to the Govt. of India.

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